

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

CHRISTOPHER CARBIN,

PETITIONER

V.

NO. 2:07CV240-P-D

STATE OF MISSISSIPPI,

RESPONDENT

ORDER DENYING PETITION AND CLOSING CASE

Petitioner, a state inmate proceeding *pro se*, has filed this matter pursuant to 28 U.S.C. § 1651 seeking a writ of mandamus. Specifically, Petitioner asks that this court compel the Tate County Circuit Court to rule on his motion to dismiss. According to exhibits attached to the petition, Petitioner filed a motion to dismiss a 1987 charge of armed robbery in the Circuit Court. Petitioner avers that he was never tried or convicted of this charge in violation of his right to a speedy trial.

Exhibits indicate that Petitioner also sought a writ of mandamus from the State Supreme Court which was denied on February 26, 2006. The February 26th order and a November 1, 2007, order both state that the armed robbery charge has been “remanded to the file by the circuit court on or about August 8, 1987.” Under Mississippi practice, a “remand to the file” is the functional equivalent of a *nolle prosequi*. *Thigpen v. Roberts*, 468 U.S. 27, 29 n.3, 104 S.Ct. 2916, 2918, 82 L.Ed.2d 23 (1984). In layman’s terms, the charge was abandoned when it was remanded to the file. Since the charge has been abandon for over twenty years, Petitioner’s state court motion to dismiss the 1987 armed robbery charge is moot. Thus, a writ of mandamus is not warranted or necessary to obtain the relief Petitioner is seeking in the Tate County Circuit Court. The petition for writ of mandamus is, therefore, DENIED. This matter is CLOSED.

IT IS SO ORDERED.

THIS the 1st day of February, 2008

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE